

SEALED

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

OCT 03 2018

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY CO DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

ERNESTO GUTIERREZ-MARTINEZ (1),
[REDACTED]

Defendants.

) **INDICTMENT**

) **COUNT 1:**

) 18 U.S.C. §§ 554 & 371 – Conspiracy to Smuggle
) goods from the United States

) **COUNT 2:**

) 18 U.S.C. §§ 924(c)(1)(A) and 924(o) – Conspiracy
) to Possess a Firearm in relation to a Drug
) Trafficking Crime

THE GRAND JURY CHARGES:

SA 18 CR 0722 OG

COUNT ONE

[18 U.S.C. §§ 554 & 371]

That from on or about January, 2017, and continuing until on or about May 22, 2018, in the Western District of Texas and elsewhere, the Defendants,

ERNESTO GUTIERREZ-MARTINEZ (1), and
[REDACTED]

did knowingly and willfully combine, conspire, confederate and agree with each other and with others known and unknown to receive, conceal, buy, sell, and facilitate the transportation, concealment, and sale of merchandise, articles, and goods, knowing the goods were intended for exportation contrary to the laws and regulations of the United States; in violation of Title 18, United States Code, Section 554.

OVERT ACTS

In furtherance of the conspiracy and to effect the purposes and objects thereof, numerous overt acts were committed by the defendants and others in the Western District of Texas and elsewhere. These acts include but are not limited to the following:

(1) On or about May 5, 2018, defendant **ERNESTO GUTIERREZ-MARTINEZ (1)** entered

into negotiations with an undercover police officer for the purchase of a Barret Arms .50 caliber semiautomatic rifle.;

(2) On or about May 6, 2018, defendant **ERNESTO GUTIERREZ-MARTINEZ (1)** sent [REDACTED] [REDACTED] [REDACTED] [REDACTED] a copy of his text messages with the undercover agent.;

(3) On or about May 6, 2018, defendant [REDACTED] [REDACTED] [REDACTED] communicated to defendant **ERNESTO GUTIERREZ-MARTINEZ (1)** that “the guy” keeps bothering him about the purchase of the Barrett rifles and;

(4) On or about May 20, 2018, defendant **ERNESTO GUTIERREZ-MARTINEZ (1)** asked the undercover agent for a photo of the Barrett rifle. When the agent sent a photo of a Barrett .50 caliber rifle to him, **ERNESTO GUTIERREZ-MARTINEZ (1)** forwarded the SMS message to [REDACTED] [REDACTED] [REDACTED] [REDACTED] and;

(5) On or about May 22, 2018, defendants **ERNESTO GUTIERREZ-MARTINEZ (1)** met with undercover agents for the purpose of buying two Barrett .50 caliber rifles.

All in violation Title 18, United States Code, Sections 371 and 554.

COUNT TWO
[18 U.S.C. §§ 924(c)(1)(A) & 924(o)]

That from on or about January, 2017, and continuing until on or about May 22, 2018, in the Western District of Texas and elsewhere, the Defendants,

ERNESTO GUTIERREZ-MARTINEZ (1), and
[REDACTED] [REDACTED] [REDACTED] [REDACTED]

did knowingly and willfully combine, conspire, confederate and agree with each other and with others known and unknown to the grand jury to possess a firearm in relation to a drug trafficking offense, in that they knowingly and intentionally conspired to purchase, smuggle, and deliver firearms to a drug trafficking organization that was involved in the commission of offenses

punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.) and the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), in violation of Title 18, United States Code, Section 924(o).

OVERT ACTS

In furtherance of the conspiracy and to effect the purposes and objects thereof, numerous overt acts were committed by the defendants and others in the Western District of Texas and elsewhere. These acts include but are not limited to the following:

- (6) All of the overt acts as alleged in Count One of this indictment, above;
- (7) On or about February 20, 2018, defendants **ERNESTO GUTIERREZ-MARTINEZ (1)** and [REDACTED] discussed a newspaper article about a conflict between factions of a drug trafficking organization in Mexico. The defendants discussed how the firearms they previously provided to the drug trafficking organization should be used in the conflict;
- (8) On or about May 5, 2018, defendant [REDACTED] sent **ERNESTO GUTIERREZ-MARTINEZ (1)** a copy of his messages he received about the purchase of two items;
- (9) On or about May 6, 2018, defendant [REDACTED] communicated to defendant **ERNESTO GUTIERREZ-MARTINEZ (1)** that “the guy” keeps bothering him about the purchase of the Barrett rifles and;
- (10) On or about May 16, 2018, defendant **ERNESTO GUTIERREZ-MARTINEZ (1)** sent multiple photos of bulk quantities of .50 caliber ammunition and .50 caliber magazines to defendant [REDACTED] who responded to those photos by saying that he had sent them.


All in violation Title 18, United States Code, Sections 924(c)(1)(A) and 924(o).

A TRUE BILL.


FOREPERSON OF GRAND JURY

JOHN F. BASH
United States Attorney

By:


CHARLES L. JENKINS
Assistant United States Attorney